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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**F I N A L M I N U T E S**

MEETING OF:

**STATE BOARD OF OPTOMETRY**

TIME: 9:06 A.M.

Board Room B  
One Penn Center  
2601 North Third Street  
Harrisburg, Pennsylvania 17110

Thursday, February 7, 2019

State Board of Optometry  
February 7, 2019

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BOARD MEMBERS:

- Carl J. Urbanski, O.D., Chairman
- Luanne K. Chubb, O.D., F.A.A.O., Vice Chairperson
- Jeffrey B. Becker, O.D., Secretary
- Ian J. Harlow, Commissioner of Professional and Occupational Affairs - Absent
- Pamela Barnhart, Office of Attorney General, Consumer Protection Member
- Kimberly F. Boyer, O.D.
- John A. Godfrey, O.D.
- Davis C. Haire, O.D. - Absent
- Gerald E. Olson, O.D. - Absent
- Perry C. Umlauf, O.D.

BUREAU PERSONNEL:

- Jacqueline A. Wolfgang, Esquire, Board Counsel
- David Smith, Esquire, Board Prosecution Liaison
- Paul J. Jarabeck, Esquire, Board Prosecutor
- Elizabeth Wecker, Board Administrator

ALSO PRESENT:

- Joseph A. Ricci, Esquire, Executive Director, Pennsylvania Optometric Association
- Ted Mowatt, Wanner Associates, on behalf of Pennsylvania Optometric Association

1 \*\*\*

2 State Board of Optometry

3 February 7, 2019

4 \*\*\*

5 The regularly scheduled meeting of the State  
6 Board of Optometry was held on Thursday, February 7,  
7 2019. Carl J. Urbanski, O.D., Chairman, called the  
8 meeting to order at 9:06 a.m.]

9 \*\*\*

10 Evacuation Announcement

11 [Elizabeth Wecker, Board Administrator, reviewed the  
12 emergency evacuation procedures for One Penn Center.]

13 \*\*\*

14 Roll Call/Introduction of Guests

15 [Chairman Urbanski requested roll call be taken and  
16 guests in the audience introduce themselves.]

17 \*\*\*

18 Approval of Minutes

19 CHAIRMAN URBANSKI:

20 Our first item on the agenda is to  
21 review and approve the minutes from the  
22 November 1, 2018 meeting. The Board  
23 members would have all received this in  
24 your Board agenda and prior emails.

25 Are there any changes, corrections,

1 or deletions for the minutes?

2 [The Board discussed corrections to the minutes.]

3 CHAIRMAN URBANSKI:

4 Any other changes? Hearing none. Is  
5 there a motion to accept the minutes  
6 with the changes by Dr. Boyer?

7 DR. UMLAUF:

8 I move to accept the minutes.

9 CHAIRMAN URBANSKI:

10 Thank you, Dr. Umlauf. Is there a  
11 second?

12 DR. GODFREY:

13 Second.

14 CHAIRMAN URBANSKI:

15 Dr. Godfrey. Any other discussion on  
16 the motion? Hearing none. All those in  
17 favor, signify by saying aye. Opposed?  
18 Any abstentions?

19 [The motion carried unanimously.]

20 \*\*\*

21 Report of Prosecutorial Division - No Report

22 \*\*\*

23 Report of Board Counsel

24 [Jacqueline A. Wolfgang, Esquire, Board Counsel, noted  
25 the Sunshine Act and Recusal Guidelines for the

1 Board's review. Ms. Wolfgang reminded Board members  
2 that complainants should contact the Board or Bureau  
3 to report complaints. Board members should refer  
4 complainants to the Board administrator or Board  
5 Counsel.

6 Ms. Wolfgang commented that the Sunshine Act  
7 requires the Board and its committees to adhere to the  
8 Sunshine Act when engaging in deliberations or  
9 official actions. She stated, under the Sunshine Act,  
10 the public has the right to be present at all  
11 meetings.

12 Ms. Wolfgang stated executive sessions and  
13 conferences are exceptions in the Sunshine Act. She  
14 provided a brief summary of executive session rules.  
15 She reminded Board members not to discuss agency  
16 business, especially executive session matters outside  
17 of an official Board meeting.

18 Ms. Wolfgang provided a current Food and Drug  
19 Administration (FDA) approval list of drugs for  
20 optometrists. She reported on researching the status  
21 of the Board's drugs with respect to FDA status. Ms.  
22 Wolfgang suggested that the professional members  
23 review the research to assure the accuracy of the  
24 Board's list.

25 Chairman Urbanski suggested appointing a

1 committee of at least two doctors to review the list.  
2 He suggested providing a footnote of 2019 currently  
3 out of production drugs may be appropriate versus  
4 removing the drugs from the list. Chairman Urbanski  
5 also suggested those serving on the committee should  
6 list drugs by their chemical name.

7 Ms. Wolfgang reviewed the list of approved drugs  
8 and provided the Board with DOH notices of approval.  
9 Board Counsel explained that some drugs on the list  
10 were approved with no records of approval through the  
11 Department of Health (DOH) because those drugs were  
12 the original drugs approved by DOH, which are included  
13 in the DOH regulations.

14 Chairman Urbanski stated the whole section  
15 pertaining to diagnostics was most likely approved  
16 before the statute was changed to say that the  
17 Secretary of Health had to approve new drugs and  
18 probably why the drugs are not listed with the  
19 department or perhaps published. He commented that it  
20 would have been a blanket issuing of diagnostic agents  
21 for the use by optometrists, that then came  
22 therapeutic legislation and glaucoma legislation.

23 Ted Mowatt, Pennsylvania Optometric Association,  
24 commented that diagnostics have been approved by the  
25 Secretary of Health since 1976, which is why

1 it carried over with therapeutics and then with  
2 glaucoma.

3 Chairman Urbanski inquired as to Board member  
4 interest to be on the committee, and Dr. Godfrey and  
5 Dr. Boyer volunteered.

6 Ms. Wolfgang suggested that the committee review  
7 the agenda attachments and provide feedback for  
8 discussion at the next Board meeting.

9 Dr. Becker noted PA Code Titles to be an ancient  
10 document.

11 Ms. Wolfgang explained PA Code Titles are  
12 Department of Health regulations and that the  
13 Optometry Board does not have any ability to change  
14 those regulations.

15 Ms. Wolfgang did bring this issue up with DOH a  
16 few years ago when the Bureau met with DOH on global  
17 issues of the departments. Board Counsel also noted  
18 that DOH regulations do not reflect the complete list  
19 of drugs and suggested that this be updated as well.  
20 Board Counsel will apprise the Commissioner's office  
21 regarding this issue. ]

22 \*\*\*

23 Report of Board Chairman

24 [Carl J. Urbanski, O.D., Chairman, questioned whether  
25 there was an update regarding asking the Secretary of

1 Health for approval of Oxervate (cenegermin-bkbj).

2 Ms. Wolfgang had not heard anything definitively  
3 one way or the other.

4 Chairman Urbanski expressed his concern of coming  
5 very close to the 90-day window after sending it on  
6 November 1 at the last meeting.

7 Ms. Wolfgang will follow up after the Board  
8 meeting, noting that as soon as it is approved notices  
9 will be sent to the Board members.

10 Dr. Godfrey questioned whether Vyzulta had been  
11 approved. He saw Rhopressa on the list but did not  
12 see Vyzulta (latanoprostene bunod), noting that  
13 latanoprost was approved but not latanoprostene bunod.

14 Ms. Wolfgang will investigate the matter further.

15 Chairman Urbanski noted online technology and  
16 telemedicine and decorative contacts for discussion  
17 during the Regulatory Committee Meeting.

18 Ms. Wolfgang addressed unlicensed practice,  
19 encouraging Board members to report any complaints.  
20 She explained that the Board cannot investigate the  
21 matter, but the Board will review the case if  
22 prosecution finds a violation and presents the case  
23 to the Board.

24 Chairman Urbanski addressed joint announcements  
25 with the Department of Health. He noted success over

1 the years in making a public health release regarding  
2 decorative contact lenses. He also noted the need for  
3 a cooperative warning to the public regarding online  
4 technology or inappropriate use of telemedicine. He  
5 commented, in the last legislative session, there was  
6 a telemedicine bill that was encouraging Boards to use  
7 their regulatory process to make clarifications, but  
8 the legislation did not pass in the last session.

9 Mr. Ricci commented that the legislation had not  
10 been introduced, but there was a strong desire to  
11 reintroduce that legislation and efforts were being  
12 made to make that happen.

13 Chairman Urbanski suggested a joint announcement  
14 to the public until there is the ability to clarify  
15 the matter through the regulatory process.

16 Ms. Wolfgang mentioned that basically the same  
17 announcement had been used over the past several years  
18 but will draft additional information for the Board's  
19 review.

20 Chairman Urbanski referred to the email from  
21 Accreditation Council on Optometric Education (ACOE)  
22 requesting comments on changes made to their bylaws.  
23 Chairman Urbanski noted strong concerns regarding one  
24 of the optometry schools signing an agreement  
25 receiving funding from a corporation, which had been

1 rescinded.

2 Chairman Urbanski requested a motion to send a  
3 letter on behalf of the Board to ACOE approving the  
4 changes without any concerns.]

5 DR. UMLAUF:

6 I motion that the Board supports the  
7 draft proposal as stated in the  
8 document.

9 CHAIRMAN URBANSKI:

10 Thank you, Dr. Umlauf.

11 DR. BOYER:

12 Second.

13 CHAIRMAN URBANSKI:

14 Second, Dr. Boyer. Any other discussion  
15 on the motion? Hearing none. All those  
16 in favor, signify by saying aye.

17 Opposed? Any abstentions?

18 [The motion carried unanimously.]

19 \*\*\*

20 Report of Board Chairman (Continued)

21 [Carl J. Urbanski, O.D., Chairman, requested the  
22 newsletter be started earlier this calendar year due  
23 to multiple steps in the approval process. The Board  
24 agreed to opioid correction, how long to keep charts,  
25 and a reminder to refer back to the prior newsletter

1 regarding CE for newsletter articles.

2 Dr. Chubb commented that the Association of  
3 Regulatory Boards of Optometry (ARBO) down in the  
4 central location for the Optometric Boards nationally  
5 had reformed a new committee to discuss the Council on  
6 Optometric Practitioner Education (COPE) accreditation  
7 for continuing education.

8 Dr. Chubb noted that the committee was made up of  
9 state Board members, academy members, and members from  
10 the Association of Schools and Colleges of Optometry  
11 (ASCO). She noted that AOA was not joining in that  
12 process and would not send a representative.]

13 \*\*\*

14 Report of Regulatory Counsel

15 [Jacqueline A. Wolfgang, Esquire, Board Counsel, noted  
16 the Status Report for the Board's review.

17 Ms. Wolfgang addressed general revisions, stating  
18 that the Office of General Counsel (OGC) completed its  
19 review and approval of the proposed regulations  
20 regarding 16A-5213 in November 2018.

21 Ms. Wolfgang noted, on December 3, 2018, OGC  
22 approved the regulatory package but Sine Die prevented  
23 the Board from delivering the package and are at a  
24 holding period until the committees are published  
25 (Sine Die signifies final adjournment of a two-year

1 legislative session).

2 Ms. Wolfgang noted that regulations to update  
3 volunteer license provisions were still pending with  
4 Regulatory Counsel, and the child abuse reporting  
5 regulations were in the process of being updated.

6 Ms. Wolfgang commented that separate Regulatory  
7 Counsel wrote Child Abuse regulations for all of the  
8 Boards. She commented that a decision was made to  
9 focus on the Dental Board to get those regulations all  
10 the way through the process, and as soon as that  
11 package was processed and approved, all the other  
12 regulations for all of the other Boards would be  
13 pushed through.

14 Ms. Wolfgang referred to fee regulations, just as  
15 a reminder that the Board had deferred the regulatory  
16 package approximately a year ago.

17 Ms. Wolfgang referred to the attached regulatory  
18 process PowerPoint for review with the Board. She  
19 noted drafting, prepublication review, proposed  
20 regulation, publishing and public comment, legislative  
21 committee and IRRC review, revision and final  
22 rulemaking, post-publication review, and legislative  
23 committee and IRRC review part 2, and regulation  
24 publication.

25 Ms. Wolfgang noted the ratification for CE waiver

1 for discussion during executive session.]

2

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3 Report of Board Administrator

4 [Elizabeth Wecker, Board Administrator, commented that

5 Board members were notified via email of the Statement

6 of Financial Interests form to be completed by

7 May 1, 2019.]

8

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9 New Business

10 [Carl J. Urbanski, O.D., Chairman, requested a vote on

11 the travel request for a representative or

12 representatives to attend the ARBO Meeting in St.

13 Louis in June.]

14 CHAIRMAN URBANSKI:

15 I'd like to make a motion to make a

16 travel request for the ARBO Meeting in

17 June to send one representative,

18 Dr. Chubb.

19 Is there a second?

20 DR. BECKER:

21 Dr. Becker, thank you.

22 CHAIRMAN URBANSKI:

23 Any discussion on that motion? Hearing

24 none. All those in favor of the motion,

25 signify by saying aye. Opposed? Any

1 abstentions?

2 [The motion carried unanimously.]

3 \*\*\*

4 Miscellaneous - Board Meeting Dates

5 [Carl J. Urbanski, O.D., Chairman, referred to the  
6 proposed 2020 Board meeting dates and requested Board  
7 members present conflicts to the Board administrator.]

8 \*\*\*

9 Miscellaneous - Election of Officers

10 [Carl J. Urbanski, O.D., Chairman, noted officers for  
11 election are Chair, Vice Chair, and Secretary.]

12 \*\*\*

13 CHAIRMAN URBANSKI:

14 Are there any nominations for the  
15 position of Board Chair?

16 DR. BECKER:

17 I nominate Carl Urbanski.

18 CHAIRMAN URBANSKI:

19 Is there a second?

20 DR. GODFREY:

21 Second.

22 CHAIRMAN URBANSKI:

23 Thank you. Are there any other  
24 nominations for position of Board Chair,  
25 other nominations?

1                   Is there a motion to close  
2                   nominations?

3 DR. CHUBB:

4                   I motion to close nominations.

5 CHAIRMAN URBANSKI:

6                   Thank you.

7 DR. BOYER:

8                   Second.

9 CHAIRMAN URBANSKI:

10                   Second, Dr. Boyer. I have been  
11                   nominated for Board Chair. A motion has  
12                   been seconded. Nominations have closed,  
13                   so we will take a vote. All those in  
14                   favor, signify by saying aye. Opposed?  
15                   Any abstentions?

16 [The motion carried unanimously.]

17   \*\*\*

18 CHAIRMAN URBANSKI:

19                   Next is for nominations for the position  
20                   of Vice Chair. I would like to  
21                   nomination Dr. Luanne Chubb for that  
22                   position.

23                   Is there a second?

24 DR. UMLAUF:

25                   Second.

1 CHAIRMAN URBANSKI:

2 Dr. Umlauf, thank you. Are there any  
3 other nominations for position of Vice  
4 Chair, any other nominations? Hearing  
5 none.

6 Is there a motion to close  
7 nominations?

8 DR. BOYER:

9 I move to close.

10 CHAIRMAN URBANSKI:

11 Thank you, Dr. Boyer.

12 DR. BECKER:

13 Second.

14 CHAIRMAN URBANSKI:

15 Second, Dr. Becker. We will vote on  
16 Dr. Chubb's nomination for the position  
17 of Vice Chair. All those in favor,  
18 signify by saying aye. Opposed? Any  
19 abstentions? Congratulations, Dr.  
20 Chubb.

21 [The motion carried unanimously.]

22 \*\*\*

23 CHAIRMAN URBANSKI:

24 The final Board officer position is the  
25 position of Secretary.

1                   Are there any nominations for the  
2                   position of Secretary?

3 DR. UMLAUF:

4                   I'd like to nominate Kimberly Boyer for  
5                   Secretary.

6 CHAIRMAN URBANSKI:

7                   Is there a second?

8 DR. GODFREY:

9                   Second.

10 CHAIRMAN URBANSKI:

11                   Are there any other nominations for the  
12                   position of Secretary, any other  
13                   nominations? Hearing none.

14                   May I have a motion to close  
15                   nominations?

16 DR. CHUBB:

17                   Thank you, Dr. Chubb.

18 DR. GODFREY:

19                   Second.

20 CHAIRMAN URBANSKI:

21                   Second, Dr. Godfrey. We have a  
22                   nomination for Dr. Kimberly Boyer for  
23                   the position of Secretary. All those in  
24                   favor, signify by saying aye. Opposed?  
25                   Any abstentions? Congratulations,

1 Dr. Boyer.

2 [The motion carried unanimously.]

3 \*\*\*

4 Miscellaneous - Committee Assignments

5 [Carl J. Urbanski, O.D., Chairman, referred to the  
6 Optometry Committee Assignments attachment.

7 Ms. Wecker noted that Dr. Olson is on the  
8 Probable Cause Committee.

9 Dr. Becker questioned what happens to Board  
10 members who do not show for the fourth time.

11 Ms. Wolfgang advised the Board that under the  
12 practice act the position is forfeited, but this is  
13 something the commissioner's office has to pursue.

14 Chairman Urbanski noted that the Board may be  
15 looking for another volunteer for the Probable Cause  
16 Committee if Dr. Olson is no longer able to serve.]

17 \*\*\*

18 Public Comment Period

19 [Joseph A. Ricci, Esquire, Executive Director,  
20 Pennsylvania Optometric Association, informed the  
21 Board that the Pennsylvania Optometric Association  
22 2020 Spring Congress will be Thursday, April 30  
23 through Sunday, May 3.

24 Mr. Ricci asked if there is anything that the  
25 Board would like to add to the modification of the

1 scope of practice before Senator Gordner introduces  
2 that to legislation.

3 Chairman Urbanski noted that prior issues the  
4 Board had passed on to the POA would be under § 4.1.  
5 He stated that the challenge is with licensees  
6 applying from other states and the 100-hour  
7 requirement and passage of the Treatment & Management  
8 of Ocular Disease (TMOD) section, which is now in Part  
9 II of the National Board. He noted this to be a  
10 recurring issue that is in the statute, where access  
11 to a 100-hour course is down to one school once a year  
12 and is challenging for applicants to achieve that  
13 requirement.

14 Chairman Urbanski addressed Senate Bill 668  
15 § 6(b). He noted that the current statute states only  
16 fourth year interns and was changed to Salus  
17 University Pennsylvania College of Optometry sends out  
18 third-year interns to doctors' offices.

19 Mr. Ricci commented that the section related to  
20 Senate Bill 668 § 6(b) removes reference to any class  
21 year. He also stated that as long as it is an  
22 approved internship program, it would allow students  
23 to be sent to various offices around the state.

24 Mr. Ricci asked the Board if they had any  
25 recommendations in lieu of that 100-hour requirement

1 for people to show competency in therapeutics.

2 Chairman Urbanski mentioned that reciprocity was  
3 addressed in one of the pending regulations. He noted  
4 the need for further discussion at a Regulatory  
5 Committee Meeting regarding language in the ending  
6 regulation and will get back to Mr. Ricci with some  
7 suggested language if it needs additional change by  
8 statute.]

9

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10 [Carl J. Urbanski, O.D., Chairman, noted May 9 as the  
11 next scheduled Board meeting.]

12

\*\*\*

13 [Carl J. Urbanski, O.D., Chairman, announced  
14 Ms. Wecker may not be present at the next Board  
15 meeting on May 9 and wished her well.

16 Dr. Urbanski invited Mr. Ricci to attend the  
17 Regulatory Committee Meeting following the Board  
18 meeting.]

19

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20 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
21 10:13 a.m. the Board entered into Executive Session  
22 with Jacqueline A. Wolfgang, Esquire, Board Counsel,  
23 for the purpose of conducting quasi-judicial  
24 deliberations and to receive advice of Counsel. The  
25 Board returned to open session at 10:37 a.m.]

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MOTION

MS. WOLFGANG:

Pursuant to Section 708(a)(5) of the Sunshine Act, the Board entered into executive session with Board Counsel to have attorney-client consultations and for the purpose of conducting quasi-judicial deliberations regarding the CE Waiver of Kelly M. Donlan, O.D.

I believe the Board would entertain a motion at this time.

CHAIRMAN URBANSKI:

Dr. Boyer.

DR. BOYER:

I move to grant the CE Waiver of Dr. Donlan based on her documentation for the cycle ending November 30, 2018, allowing her to gain all of her CE online.

CHAIRMAN URBANSKI:

Is there a second?

DR. UMLAUF:

Second.

CHAIRMAN URBANSKI:

1 Dr. Umlauf, thank you. Any other  
2 discussion on the motion? Hearing none.  
3 All those in favor, signify by saying  
4 aye. Any opposed? Any abstentions?

5 [The motion carried unanimously.]

6 \*\*\*

7 Adjournment

8 CHAIRMAN URBANSKI:

9 Is there a motion to adjourn?

10 DR. CHUBB:

11 So moved.

12 CHAIRMAN URBANSKI:

13 Dr. Chubb, thank you. Second?

14 DR. GODFREY:

15 Second.

16 CHAIRMAN URBANSKI:

17 Second, Dr. Godfrey. All those in  
18 favor? Opposed? Any abstentions?

19 [The motion carried unanimously.]

20 \*\*\*

21 [There being no further business, the State Board of  
22 Optometry Meeting adjourned at 10:39 a.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Optometry meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Optometry meeting.



Amy L. Warehime,

Minute Clerk

Sargent's Court Reporting  
Service, Inc.

STATE BOARD OF OPTOMETRY  
REFERENCE INDEX

February 7, 2019

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8	9:06	Official Call to Order
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10	9:06	Roll Call/Introduction of Guests
11		
12	9:08	Approval of Minutes
13		
14	9:08	Report of Board Counsel
15		
16	9:20	Report of Board Chair
17		
18	9:42	Report of Regulatory Counsel
19		
20	9:58	Report of Board Administrator
21		
22	9:59	New Business
23		
24	10:02	Miscellaneous
25		
26	10:08	Public Comment Period
27		
28	10:13	Executive Session
29	10:37	Return to Open Session
30		
31	10:37	Motions
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33	10:39	Adjournment
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